

To: Members of Senate State Affairs Committee  
From: Eric Milstead, LSO  
Date: January 13, 2017  
Re: Talking Points Regarding Documents for the Contest of Election

1. Index is your Road Map.
2. Every Document that was delivered by the SOS to the Senate on January 10 is on your flash-drive (with only a couple exceptions—which I'll get to)
3. The index is identical to the Index the SOS gave to the Senate—with two exceptions.
  - a. We've added two columns:
    - i. First column we've given each document a document #1—so you can link that document to your thumb-drive
    - ii. We've included a "Folder" column—this reflects the specific folder on your thumb drive where that document is located.
4. Walk through Thumb Drive
  - a. Look at Document #13—it's located in Folder "Notice of Contest of Election"
    - i. This is the document that formally started the process—it includes the three grounds the Contestant raises in this matter.
  - b. Look at Documents 52 through 57—These are the memoranda or briefs that the parties have filed. These reflect their arguments. (These documents were not in the box delivered to the Senate; they were filed after that box was sealed.)
    - i. There are 5 memoranda or briefs in this folder:
      1. 2 from the Contestant's Attorney (Mr. Katsilometes' Attorney, Mr. Kahle Becker)
      2. 2 from the Incumbent's Attorney (Senator Nye's Attorney, Mr. James Ruchti)
      3. 1 from the Contestant himself (dealing with counts 2 and 3 raised in the Notice of Contest)
  - c. Turn to Depositions: Document numbers 31 through 38.
    - i. These reflect the verbatim transcripts of the testimony of witnesses in this matter. Depositions are taken under oath. There were four witnesses deposed. There are two copies of each deposition and their related exhibits.
    - ii. Explain about "Original Depositions"—not included on the thumb drive.
  - d. Affidavits—essentially two types of Affidavits:

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- i. One kind are process oriented—service of papers; notification to parties, etc. Not really substantive or adding to the arguments, but are part of the process. These are in a subfolder in the “Affidavits” folder.
  - ii. The other type of Affidavits are lengthier and include points raised by the parties and exhibits.
- e. Orders—
  - i. Again, this reflects copies of every document filed with the SOS.
  - ii. Document #12—Procedural Order—governs this process and has specific instructions regarding Monday’s meeting.
  - iii. Explain Documents 25 and 26 and 51.
    - 1. Documents 25 and 26 were proposed orders—that is, orders that could have been adopted by the Pro Tem or Majority Leader. However, Document 51 is the final order on that matter---this is the one that has the Pro Tem’s signature.

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